

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

UTAH YORK

(b) County of Residence of First Listed Plaintiff _____

(c) Attorney's (Firm Name, Address, Telephone Number and Email Address)

Craig Thor Kimmel, Esquire
Kimmel & Silverman, P.C.
30 E. Butler Pike
Ambler, PA 19002
(215) 540-8888

DEFENDANTS

NCO FINANCIAL SYSTEMS, INC.

County of Residence of First Listed Defendant _____

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known) _____

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. SECTION 1692

Brief description of cause:

Fair Debt Collection Practices Act

VII. REQUESTED IN COMPLAINT:
☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S)**

(See instructions):

JUDGE _____

DOCKET NUMBER _____

Explanation:

10-13-11

/S/ CRAIG THOR KIMMEL

DATE

SIGNATURE OF ATTORNEY OF RECORD

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 15010 Algene Drive, Frisco TX 75035

Address of Defendant: 507 Prudential Road, Harsham PA 19014

Place of Accident, Incident or Transaction: _____
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases 15 U.S.C. § 1692
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Craig Ther Kimmel, counsel of record do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

DATE: 10-13-11

Craig Ther Kimmel
Attorney-at-Law

57100
Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 10-13-11

Craig Ther Kimmel
Attorney-at-Law

57100
Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Utah York

v.

NCO Financial Systems, Inc.

CIVIL ACTION

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ☒
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

10-13-11

Date

Craig Ther Kimmel

Attorney-at-law

Utah York

Attorney for

215-5410-8888

Telephone

877-788-2864

FAX Number

Kimmel@creditlaw.com

E-Mail Address

**UNITED STATES DISTRICT COURT
FOR THE**

UTAH YORK,

Plaintiff

V.

NCO FINANCIAL SYSTEMS, INC.,

Defendant

Civil Action No.:

COMPLAINT AND DEMAND FOR JURY TRIAL

(Unlawful Debt Collection Practices)

COMPLAINT

UTAH YORK ("Plaintiff"), by and through his attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against NCO FINANCIAL SYSTEMS, INC. ("Defendant"):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. §1692 *et seq.* ("FDCPA"), and the Telephone Consumer Protection Act, 47 U.S.C. §227 *et seq.* (hereinafter the "TCPA").

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” 28 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising under the laws of the United States, and 28 U.S.C. § 1367 grants this court supplemental jurisdiction over the state claims contained therein.

3. Defendant has its corporate headquarters in the Commonwealth of Pennsylvania and as such, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(1).

PLAINTIFF'S COMPLAINT

PARTIES

5. Plaintiff is a natural person residing in Frisco, Texas.

6. Plaintiff is a “consumer” as that term is defined by 15 U.S.C. §1692a(3).

7. Also, Plaintiff is a person granted a cause of action under the FDCPA. See 15 U.S.C. § 1692k(a) and Wenrich v. Cole, 2000 U.S. Dist. LEXIS 18687 (E.D. Pa. Dec. 22, 2000).

8. Defendant is a national debt collection company with its corporate headquarters located at 507 Prudential Road, Horsham, PA 19044.

9. Defendant is a “debt collector” as that term is defined by 15 U.S.C. § 1692a(6), and repeatedly contacted Plaintiff in an attempt to collect a debt.

10. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

PRELIMINARY STATEMENT ON THE FDCPA

11. The FDCPA is a comprehensive statute, which prohibits a catalog of activities in connection with the collection of debts by third parties. See 15 U.S.C. § 1692 *et seq.* The FDCPA imposes civil liability on any person or entity that violates its provisions, and establishes general standards of debt collector conduct, defines abuse, and provides for specific consumer rights. 15 U.S.C. § 1692k. The operative provisions of the FDCPA declare certain rights to be provided to or claimed by debtors, forbid deceitful and misleading practices, prohibit harassing and abusive tactics, and proscribe unfair or unconscionable conduct, both generally and in a specific list of disapproved practices.

12. In particular, the FDCPA broadly enumerates several practices considered contrary to its stated purpose, and forbids debt collectors from taking such action. The substantive heart of the FDCPA lies in three broad prohibitions. First, a “debt collector may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any

1 person in connection with the collection of a debt.” 15 U.S.C. § 1692d. Second, a “debt
2 collector may not use any false, deceptive, or misleading representation or means in connection
3 with the collection of any debt.” 15 U.S.C. § 1692e. And third, a “debt collector may not use
4 unfair or unconscionable means to collect or attempt to collect any debt.” 15 U.S.C. § 1692f.
5 The FDCPA is designed to protect consumers from unscrupulous collectors, whether or not there
6 exists a valid debt, broadly prohibits unfair or unconscionable collection methods, conduct which
7 harasses, oppresses or abuses any debtor, and any false, deceptive or misleading statements in
8 connection with the collection of a debt.
9

10 13. In enacting the FDCPA, the United States Congress found that “[t]here is
11 abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many
12 debt collectors,” which “contribute to the number of personal bankruptcies, to marital instability,
13 to the loss of jobs, and to invasions of individual privacy.” 15 U.S.C. § 1692a. Congress
14 additionally found existing laws and procedures for redressing debt collection injuries to be
15 inadequate to protect consumers. 15 U.S.C. § 1692b.

16 14. Congress enacted the FDCPA to regulate the collection of consumer debts by debt
17 collectors. The express purposes of the FDCPA are to “eliminate abusive debt collection
18 practices by debt collectors, to insure that debt collectors who refrain from using abusive debt
19 collection practices are not competitively disadvantaged, and to promote consistent State action
20 to protect consumers against debt collection abuses.” 15 U.S.C. § 1692e.
21

22 **FACTUAL ALLEGATIONS**

23 15. At all pertinent times hereto, Defendant was hired to collect a consumer debt and
24 attempted to collect that debt from Plaintiff.

25 16. Upon information and belief, the debt arose out of transactions that were
primarily for personal, family, or household purposes.

1 17. Beginning in or around May 2011, Defendant constantly and continuously placed
2 collection calls to Plaintiff seeking and demanding payment for an alleged debt of another
3 person.

4 18. Defendant placed calls to Plaintiff's cellular telephone.

5 19. Plaintiff received calls to his cellular phone from the following telephone
6 number: (800) 735-6588, which the undersigned has confirmed is a phone number belonging to
7 Defendant.

8 20. In its telephone calls to Plaintiff, Defendant disclosed to Plaintiff that it was
9 attempting to collect a debt for a "Maria H."

10 21. In those instances where Plaintiff answered Defendant's telephone calls Plaintiff
11 informed Defendant that he was not "Maria H.", he did not know a "Maria H.", and he did not
12 want to be contacted about this debt.

13 22. Despite having been told that it was calling the wrong person, Defendant
14 continued to contact Plaintiff in its attempts to collect a debt from "Maria H."

15 23. Defendant contacted Plaintiff on his cellular telephone, on average, at least two
16 times a day.

17 24. In addition to calling Plaintiff, Defendant would leave, on average, three (3) pre-
18 recorded collection messages on Plaintiff's cellular telephone each week.

19 25. Most recently, on September 20, 2011, at 3:51 p.m., Defendant called Plaintiff on
20 his cellular telephone in an attempt to collect a debt. In its automated voicemail message,
21 Defendant instructed Plaintiff to call back and talk to "Kurt Coor."

22 26. Plaintiff does not have a business relationship with Defendant and has not had
23 prior dealings with Defendant.

24 27. Plaintiff did not consent to the placement of any collection calls to his cellular
25

1 telephone from Defendant.

2 28. Defendant's telephone calls to Plaintiff's cellular telephone were not for
3 emergency purposes.

4 29. Further, Plaintiff did not have a business relation with the entity that placed
5 collection account for "Maria H." with Defendant.

6 30. Plaintiff did not consent to the placement of any calls to his cellular telephone
7 from Defendant.

8 31. The aforementioned telephone calls were harassing and abusive to Plaintiff;
9 because Plaintiff, as a non-debtor, has a greater privacy right than a debtor from cellular
10 telephone calls demanding payment of an alleged debt.

11 32. Defendant failed to investigate or verify contact information prior to and after
12 calling Plaintiff.

13 33. Defendant failed to update its records to avoid further harassment of Plaintiff.

14 34. The repetitive calls to Plaintiff were disturbing, harassing, and an invasion of
15 privacy.

16 17 CONSTRUCTION OF THE FDCPA

18 35. The FDCPA is a strict liability statute. Taylor v. Perrin, Landry, deLaunay &
19 Durand, 103 F.3d 1232 (5th Cir. 1997). "Because the Act imposes strict liability, a consumer
20 need not show intentional conduct by the debt collector to be entitled to damages." Russell v.
21 Equifax A.R.S., 74 F. 3d 30 (2d Cir. 1996); see also Gearing v. Check Brokerage Corp., 233
22 F.3d 469 (7th Cir. 2000) (holding unintentional misrepresentation of debt collector's legal status
23 violated FDCPA); Clomon v. Jackson, 988 F. 2d 1314 (2d Cir. 1993).

24 36. The FDCPA is a remedial statute, and therefore must be construed liberally in
25 favor of the debtor. Sprinkle v. SB&C Ltd., 472 F. Supp. 2d 1235 (W.D. Wash. 2006). The

remedial nature of the FDCPA requires that courts interpret it liberally. Clark v. Capital Credit & Collection Services, Inc., 460 F. 3d 1162 (9th Cir. 2006). “Because the FDCPA, like the Truth in Lending Act (TILA) 15 U.S.C §1601 *et seq.*, is a remedial statute, it should be construed liberally in favor of the consumer.” Johnson v. Riddle, 305 F. 3d 1107 (10th Cir. 2002).

37. The FDCPA is to be interpreted in accordance with the “least sophisticated” consumer standard. See Jeter v. Credit Bureau, Inc., 760 F.2d 1168 (11th Cir. 1985); Graziano v. Harrison, 950 F. 2d 107 (3rd Cir. 1991); Swanson v. Southern Oregon Credit Service, Inc., 869 F.2d 1222 (9th Cir. 1988). The FDCPA was not “made for the protection of experts, but for the public - that vast multitude which includes the ignorant, the unthinking, and the credulous, and the fact that a false statement may be obviously false to those who are trained and experienced does not change its character, nor take away its power to deceive others less experienced.” Id. The least sophisticated consumer standard serves a dual purpose in that it ensures protection of all consumers, even naive and trusting, against deceptive collection practices, and protects collectors against liability for bizarre or idiosyncratic interpretations of collection notices. Clomon, 988 F. 2d at 1318.

COUNT I
DEFENDANT VIOLATED
THE FAIR DEBT COLLECTION PRACTICES ACT

38. In its actions to collect a disputed debt, Defendant violated the FDCPA in one or more of the following ways:

- a. Defendant violated §1692b(2) of the FDCPA by informing Plaintiff that another person owes a debt;
- b. Defendant violated §1692(b)(3) of the FDCPA by calling Plaintiff more than once in connection with collecting a debt from another individual;

- 1 c. Defendant violated §1692c(a)(1) of the FDCPA by communicating with
2 Plaintiff at a time or place that it knew or should have known to be
3 inconvenient;
- 4 d. Defendant violated §1692c(b) of the FDCPA by communicating with
5 Plaintiff about a debt allegedly owed by another person;
- 6 e. Defendant violated §1692d of the FDCPA by harassing, oppressing or
7 abusing Plaintiff in connection with the collection of an alleged debt;
- 8 f. Defendant violation §1692d(5) of the FDCPA by causing Plaintiff's
9 telephone to ring repeatedly or continuously with intent to annoy, abuse, or
10 harass him; and
- 11 g. Defendant violated §1692f of the FDCPA by using unfair and unconscionable
12 means with Plaintiff to collect or attempt to collect a debt.
13

14 **COUNT II**
15 **DEFENDANT VIOLATED THE**
16 **TELEPHONE CONSUMER PROTECTION ACT**

17 39. Plaintiff hereby incorporates all facts and allegations specified in all preceding
18 paragraphs by reference, as if fully set forth at length.

19 40. Section 227(b)(3)(A) of the TCPA authorizes a private cause of action for a
20 person or entity to bring in an appropriate court of that state "an action based on a violation of
21 this subsection or the regulations prescribed under this subsection to enjoin such violation."

22 41. Section 227(b)(3)(B), of the Act authorizes a private cause of action for a person
23 or entity to bring in an appropriate court of that state "an action to recover for actual monetary
24 loss from such a violation, or to receive \$500 in damages for each such violation, whichever is
25 greater."

1 42. A non-debtor has a vastly greater privacy interest from debt collection telephone
2 calls to a cellular telephone than an individual who is a debtor. Watson v. NCO Group Inc., 462
3 F.Supp. 2d 641 (E.D. Pa. 2006).

4 43. Despite the fact that Plaintiff is a non-debtor and never consented to Defendant
5 making calls to his cellular phone, Defendant repeatedly placed non-emergency calls to
6 Plaintiff's cellular telephone without Plaintiff's consent.

7 44. Defendant's conduct violated § 227(b)(1)(A)(iii) of the TCPA by making any call
8 using any automatic telephone dialing system or an artificial prerecorded voice to a cellular
9 telephone for non-emergency purposes, without the prior express consent of the called party,
10 unless the call is initiated for emergency purposes.

11 45. The Act also authorizes the Court, in its discretion, to award up to three (3) times
12 the actual damages sustained for violations.
13

14 WHEREFORE, Plaintiff, UTAH YORK, respectfully prays for a judgment as follows:

- 15 a. All actual compensatory damages suffered pursuant to 15 U.S.C. §
16 1692k(a)(1);
17 b. Statutory damages of \$1,000.00 for the violation of the FDCPA
18 pursuant to 15 U.S.C. § 1692k(a)(2)(A);
19 c. All reasonable attorneys' fees, witness fees, court costs and other
20 litigation costs incurred by Plaintiff pursuant to 15 U.S.C. §
21 1693k(a)(3); and
22 d. Statutory damages of \$500 for each violation of the TCPA, pursuant to
23 47 U.S.C. § 227(c)(5)(B); and
24 e. Any other relief deemed appropriate by this Honorable Court.
25

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, UTAH YORK, demands a jury trial in this case.

RESPECTFULLY SUBMITTED,

DATED: 10-13-11

KIMMEL & SILVERMAN, P.C..

By: 3654

Craig Thor Kimmel

Attorney ID # 57100

Kimmel & Silverman, P.C.

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